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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,628	06/28/2001	Susumu Nakagawa	450100-03297	6151
20999 7590 04/14/2009 FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151				
EXAMINER				
LE, NANCY LOAN T				
ART UNIT		PAPER NUMBER		
3621				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/894,628

Applicant(s)

NAKAGAWA, SUSUMU

Examiner

NANCY T. LE

Art Unit

3621

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6, 7, 9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgements

1. Applicant's Amendment filed on *03 February 2009* is acknowledged.
2. This paper is assigned Paper No. 20090408 by the Examiner.

Status of Claims

3. Claims *1-3, 6, 7, 9 and 10* have been examined and pending.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims *1-3, 6, 7, 9 and 10* are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. **6,697,948 (Rabin et al.)**; hereafter "Rabin"), in view of U.S. Patent No. **5,790,935 (Payton)** and further in view of US Patent No. **6,470,085 (Uranaka et al.)**; hereafter "Uranaka").

6. As per claims 1-3, 6, 7, 9 and 10, Rabin teaches a method and system for managing content comprising:

- (a) Key code monitoring means for comparing usage rights (e.g. number of times or period of time content can be used) with usage status and determining whether content (column 26, lines 32-60) usage is within the range according to content usage information (column 5, lines 8-28 and 35-54; column 59, lines 38-56);
- (b) disabling content if status code information exceeds usage rights (column 5, lines 44-48; column 19, lines 48-57; column 23, lines 15-25; column 59, lines 37-56);
- (c) function for outputting usage status (column 18, lines 55-60);

8. Rabin discloses content licensing (or usage rights information) (column 59, lines 36-57).

9. Rabin et al. do not expressly teach transmitting the license (or usage rights information) along with the content. However, to one of ordinary skill this is at least suggested as the computer of Rabin refers to data such as content policy for controlling content (column/line 47/45 – 48/8) which is typically found in a license. Sending a license (or usage rights information) with its associated content is old and well known, therefore it would have been obvious to one of ordinary skill to send a license with the content wherein the license stores for example, a license expiration date, to enable instant deactivation of content instead of relying on a vendor recognizing that a user has yet to renew her/his license (column 59, lines 36-57). Regarding **deleting content**,

Rabin discloses “punitive measures” (column 23, lines 16-25) as severe as “**disabling a computer**”. Rabin also teaches previously installed software with a status such as “**removed**” (figure 6; column 42, lines 13-23). To one ordinary skill in the art, the prior art at least suggests *removing the content from the user computer*. Further, it is well known to those of ordinary skill in the art *to create and receive audit trail of actions performed in order to protect a business [content] owner against possible legal action*. Rabin further teaches “**distributing usage records to a remote center**” (column 18, lines 55-60). A well known method for exchanging data over the internet is via **electronic mail, a.k.a., e-mail**.

10. Rabin does not expressly teach “**receiving contents and content usage rights information from a contents distribution server in response to a user request at a memory storage device remote from the user**”.

11. Payton, however, teaches “**receiving contents from a contents distribution server at a memory storage device remote from the user**” (figure 1; column 4, lines 45-54; column 6, lines 20-50; column/line 7/60 – 8/25; column/line 9/60 – 10/20).

12. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rabin and Payton to include “**receiving contents from a contents distribution server at a memory storage device of a network to transfer contents to a user terminal**” to allow multiple users in a home to access content along the same network connection (‘935, figure 1) and to remind each user to send a call-up message in order to avoid “*punitive measures*” such as “*disabling of a user computer*” (‘948, column 23, lines 16-25).

13. Neither Rabin nor Payton taken individually or in combination teaches “***wherein said content usage rights information contains a user’s rights to use the contents stored on the memory storage device for a predetermined number of times, a predetermined end date/time showing the usable end time until which said contents can be used, a time period showing both a start date/time and an end date/time over which the contents can be used, and a usage time showing an amount of time for which the content can be used***”.

14. Uranaka, however, teaches “***wherein said content usage rights information contains a user’s rights to use the contents stored on the memory storage device for a predetermined number of times, a predetermined end date/time showing the usable end time until which said contents can be used, a time period showing both a start date/time and an end date/time over which the contents can be used, and a usage time showing an amount of time for which the content can be used***” (C. 7 L. 58 – C. 8 L. 17, C. 6 L. 33-37, C. 14 L. 1-5) to indicate a period of time during which the content can be used.

15. Therefore, it would have been obvious to an artisan at the time the invention was made to add the aspect of “***wherein said content usage rights information contains a user’s rights to use the contents stored on the memory storage device for a predetermined number of times, a predetermined end date/time showing the usable end time until which said contents can be used, a time period showing both a start date/time and an end date/time over which the contents can be used, and a usage time showing an amount of time for which the content can be used***”

to the combination of the Rabin and Payton references to indicate a period of time during which the content can be used.

16. With regards to the claimed limitation of “**sending said warning report data by a selected method, ... when said status code information nears the threshold value ...**” (see claim 1), the USPTO interprets claim limitations that contain “**if, may, might, can, when and could**” statement(s), as **optional** language. As matter of linguistic precision, optional claim elements do not narrow claim limitations, since they can always be omitted (In re Johnston, 77 USPQ2d 1788 (CA FC 2006)). Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.

Response to Arguments

17. Applicant's arguments filed *03 February 2009* have been fully considered but they are not persuasive because the USPTO interprets claim limitations that contain “**if, may, might, can, when and could**” statement(s), as **optional** language. As matter of linguistic precision, optional claim elements do not narrow claim limitations, since they can always be omitted (In re Johnston, 77 USPQ2d 1788 (CA FC 2006)). Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.

Conclusion

Examiner has cited particular columns and line numbers and/or paragraph and/or page numbers in the prior arts of record as applied to the claims above in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to fully consider the references in its **entirety** as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the examiner should be directed to **NANCY LOAN T. LE** whose telephone number is **(571) 272-7066**. The

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examiner can normally be reached on Monday - Friday, 9am - 6:00pm Eastern Standard Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANDREW J. FISCHER can be reached on **(571) 272-6779**.

For **official/regular communication**, the fax number for the organization where this application or proceeding is assigned is **(571) 273-8300**.

For **informal/draft communication**, the fax number is **(571) 273-7066 (Rightfax)**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see **<http://pair-direct.uspto.gov>**. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197 (toll-free)**.

NANCY T. LE
Examiner, Art Unit 3621

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621